

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

PEGGY SWANSON,

Plaintiff,

v.

ORDER

Civil File No. 09-1737 (MJD/JJK)

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

Sean M. Quinn, Falsani, Balmer, Peterson, Quinn & Beyer, Counsel for Plaintiff.

Lonnie F. Bryan, United States Attorney's Office, Counsel for Defendant.

This matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes dated May 3, 2010 [Docket No. 13]. Defendant has filed an objection to the Report and Recommendation [Docket No. 14]. Pursuant to statute, the Court has conducted a de novo review of the record. See 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court **ADOPTS** the Report and Recommendation.

In its objection, Defendant argues that the Magistrate Judge improperly recommended remand for award of a closed period of disability-insurance

benefits for January 7, 2005 through April 30, 2008, rather than remand to the Agency for further proceedings, subject to later judicial review. The Eighth Circuit has held that “where the total record convincingly establishes disability and further hearings would merely delay receipt of benefits, an immediate order granting benefits without remand is appropriate.” Cline v. Sullivan, 939 F.2d 560, 569 (8th Cir. 1991). Here, there is overwhelming evidence in the record supporting a closed period of disability for January 7, 2005 through April 30, 2008. As a result, the Court finds that remand to the Agency for further proceedings would unnecessarily delay Plaintiff’s access to benefits and that a direct award of benefits is therefore warranted.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Court **ADOPTS** the Magistrate Judge’s Report and Recommendation dated May 3, 2010 [Docket No. 13].
2. Plaintiff’s Motion for Summary Judgment [Docket No. 6] is **GRANTED IN PART** for award of a closed period of disability and **DENIED IN PART** for award of continuing disability benefits.
3. Defendant’s Motion for Summary Judgment [Docket No. 10] is **DENIED**.

4. The case is **REMANDED** pursuant to 42 U.S.C. § 405(g) for calculation and award of disability-insurance benefits for a closed period of January 7, 2005 through April 30, 2008.

LET JUDGMENT BE ENTERED ACCORDINGLY

Date: August 4, 2010

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court